IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY THE FIRST DAY OF OCTOBER
TWO THOUSAND AND SEVEN

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No.18281 of 2005

Between:
Kasna Ram Reddy

..... PETITIONER

AND
The Managing Director,
A.P.State Road Transport Corporation,
Hyderabad and 3 others

.....RESPONDENTS

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No.18281 of 2005

ORDER:

This writ petition is filed by the petitioner, who is the owner of the vehicle, whose vehicle has been hired in favour of the respondent corporation, which is stated to have met with an accident, giving raise to certain liabilities.

It is stated that with reference to the said accident, the claimants have filed OP and an award was passed against the Corporation, and the Insurance Company to the extent of half of liability. It is stated that the Corporation filed the appeal. As per the interim orders passed in the appeal, half of the amount that was awarded was directed to be paid by the Corporation, which it has complied with. But, however, at the same time, to the extent of the amount deposited was sought to be withheld from out of the amount payable by the Corporation to the petitioner, who is the owner of the vehicle, relying upon Clause-5 (iv) and (vi) of the agreement that was entered into between the petitioner and the Corporation on 12.05.2000, which was renewed thereafter. The said order is being assailed in the present writ petition.

Similar issue has already been considered by this Court with reference to identical clause in the case of ***Kancham Ramesh v. Regional Manager, APSRTC, Karimnagar Region*** **(WP.15758/2005, dated 28.07.2005)** and this Court, following an earlier order in the case of ***K.Matura Bai and others***

***vs. A.Shiva Nageswar Rao and* others (2004(4) ALT-304)** held that the Corporation is not entitled to withheld the lease rentals and hire charges payable to the petitioner, and accordingly, directed to release the same to the petitioner by setting aside the impugned proceedings of the respondent Corporation. It is stated that the said order was even subject matter of appeal in W.A.1166/2006, dated 6th November, 2006. The said order was even upheld by the Division Bench, dismissing the appeal filed by the Corporation. Therefore, sought for quashing of the impugned order and to direct the Respondent Corporation to release the amount that was withheld.

The learned counsel for the Corporation, however, sought to sustain the impugned action, stating that the matters are pending before the Division Bench in appeals, and contended that in case the Corporation succeeds in appeals, the liability stands on the owner of the vehicle as well as the Insurance company, in which case, it may be difficult for the Corporation to get the amount back if it is paid, as per the orders of this Court. Therefore, the petitioner shall not be allowed to receive the amount, which was withheld by the Corporation.

Heard on either side and considered the material on record.

Since the issue is squarely covered by the orders of this Court, the petitioner is entitled for the relief sought for. Accordingly, the impugned order is set aside, and the Corporation is directed to release the amount withheld by it, within a period of three weeks from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed. No order as to costs.

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S.ANANDA REDDY.J

Dated:01.03.2007
Dsr

Note:
Issue copy in one week.

B/o
Dsr